

REMARKS

In the Office Action the Examiner has objected to a typographical error in the specification, and to informalities in claim 4. The Examiner has indicated that claims 11-20 are allowed. Also, the Examiner has rejected other claims for being anticipated by U.S. Pat. No. 6,210,401 (hereinafter Lai), and for being unpatentable over Lai in view of U.S. Pat. No. 6,666,857 (hereinafter Smith).

In response to the rejection of claims, independent claim 1 has been amended to require that the illumination means have a means for moving illumination from a first position to a second position. Further, amended claim 1 requires this movement be made at a distance from the patient's eye. Support for this amendment is found in the specification on page 4 at lines 18-20, and in Figs. 1 and 2. Additionally, claim 4 has been amended to recite structure (i.e. the moving means) previously recited in the base claim.

Amendments are presented herein to improve the form of the specification. Additionally, claims 1 and 4 have been amended to improve the readability of the claims, to more clearly define the structure of the present invention, and to point out the features which distinguish this invention over the cited art. Claims 1-20 remain pending.

Objection to the Specification

The Examiner has noted that the word "In" is improperly used on page 10, at line 26. Accordingly, Applicant has requested an amendment of the specification to change the word "In" to the word "It".

Objection to Claim 4

The Examiner has objected to claim 4 because it does not recite structure that would further limit the base claim. To overcome this objection, claim 4 has been amended to incorporate a recitation of structure which has been entered by amendment into the base claim 1.

Rejections Under 35 U.S.C. § 102

Claims 1-7 and 10 have been rejected under 35 U.S.C. § 102(b) for being anticipated by Lai.

As indicated above, independent claim 1 has been amended to require that the illumination means include a means for moving illumination from a first position to a second position. Furthermore, amended claim 1 requires this movement be accomplished at a distance from the patient's eye. The importance of this structure, and its cooperation with other aspects of the present invention, is clearly distinguishable by comparing it with the disclosure of Lai.

In a comparison of the two, there is clearly a fundamental difference between the present invention and the system disclosed by Lai. On the one hand, the present invention actually provokes eye movements in order to achieve a subsequent stability for the eye. On the other hand, the system disclosed by Lai compensates for unwanted eye movements. More specifically, Lai is directed to a system that is intended to minimize eye movement (see Lai col. 18, Ins 2-6; and col. 19 Ins, 40-45). According to

Lai, eye movement is minimized by using a suction ring that is positioned directly on the eye (see Lai col. 18, Ins 2-6 and Figs. 4A-C). Lai then goes on to indicate that, if detected, eye movements are compensated for by optical arrangements in the system (see Lai col. 19, Ins 20-24). In stark contrast with the disclosure of Lai, claims for the present invention require no such compensation, and no such direct contact with the eye. Instead, as indicated above, the present invention actually provokes eye movement from a distance. Importantly, this is done for a specific reason (i.e. inducement of saccadic movements). Such structural functionality is not contemplated by Lai.

For the above reasons, Applicant believes the basis for rejecting claims for being anticipated by Lai have been overcome and should be rejected.

Rejections Under 35 U.S.C. § 103

Claims 8 and 9 have been rejected for being unpatentable over Lai in view of Smith. Applicant contends the Lai reference has been clearly distinguished from amended claims for the present invention, and further contends that Smith does not provide any additional teaching or suggestion that would dispel the distinctions made above.

Accordingly, Applicant believes the basis for rejecting claims for being obvious in view of Lai and Smith, have been overcome and should be withdrawn.

The references cited by the Examiner, but not relied on for the rejection of claims, have been noted.

In conclusion, Applicant respectfully asserts that claims 1-20 are patentable for the reasons set forth above, and that the application is now in a condition for allowance. Accordingly, an early notice of allowance is respectfully requested. The Examiner is requested to call the undersigned at 619-688-1300 for any reason that would advance the instant application to issue.

Dated this 23rd day of May, 2005.

Respectfully submitted,



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Josef Bille)
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Serial No.:	10/718,980) Art Unit
) 3739
Filed:	November 20, 2003)
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For:	EYE POSITION CONTROL MONITOR)
	FOR LASER VISION CORRECTION)
)
Examiner:	Henry M. Johnson III)
)
Customer No:	23862)
)
Attorney Docket:	11270.39)

CERTIFICATE OF MAILING UNDER 37 CFR § 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 23rd day of May, 2005.



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